

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NORVAL LEE JACKSON,

Plaintiff,

v.

KING COUNTY CORRECTIONAL
FACILITY, et al.,

Defendants.

CASE NO. 2:23-CV-1635-RAJ-DWC

REPORT AND RECOMMENDATION

Noting Date: September 13, 2024

The District Court has referred this action filed under 42 U.S.C. § 1983 to United States Magistrate Judge David W. Christel. Plaintiff Norval Lee Jackson, proceeding *pro se* and *in forma pauperis*, initiated this civil rights action on October 25, 2023. *See* Dkt. 1. Plaintiff has not responded to the Court's order directing him to file an amended complaint. Therefore, the Court recommends this case be dismissed without prejudice for failure to prosecute and for failure to state a claim upon which relief can be granted.

In Second Amended Complaint, Plaintiff, a pretrial detainee at the time of the allegations contained in the complaint, alleges his constitutional rights were violated when various defendants failed to provide him with adequate medical care while he was in King County's

1 custody. Dkt. 12. The Court has screened Plaintiff's Complaint, Amended Complaint, and
2 Second Amended Complaint and found Plaintiff failed to state a claim upon which relief could
3 be granted. *See* Dkts. 5, 9, 13. Most recently, on July 17, 2024, the Court found Plaintiff had yet
4 again failed to state a claim upon which relief can be granted. Dkt. 13 ("Order").¹ The Court
5 provided Plaintiff with leave to file an amended pleading by August 16, 2024, to cure the
6 deficiencies identified in the Order. *Id.* The Court warned Plaintiff it would recommend
7 dismissal of this action if Plaintiff did not adequately respond to the Order and correct the
8 deficiencies of the Second Amended Complaint. *See id.*

9 Plaintiff has failed to comply with the Court's Order. He has not filed a response to the
10 Order or filed an amended complaint. Further, as discussed in the Order, Plaintiff has failed to
11 state a claim upon which relief can be granted. *See* Dkts. 12, 13. Additionally, this case has been
12 pending since October of 2023. Plaintiff has failed to file a servable complaint and his failure to
13 timely update his address resulted in delays in this case. Therefore, the Court finds this case
14 should be dismissed without prejudice and, if Plaintiff seeks to file an amended complaint, the
15 Court recommends any such request be denied and that Plaintiff be required to file a new
16 lawsuit.

17 Accordingly, the Court recommends this case be dismissed without prejudice for failure
18 to follow a Court order and failure to provide a servable complaint. The Court further
19 recommends that Plaintiff not be given additional opportunities to amend the Second Amended
20 Complaint. As Plaintiff failed to state a claim upon which relief could be granted, the Court finds
21 this case should be considered a "strike" under 28 U.S.C. § 1915(g).

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24 ¹ The Court notes there was a delay in Plaintiff's case when Plaintiff failed to provide the Court with an
updated address. *See* Dkts. 9-12.

1 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
2 **fourteen (14) days** from service of this report to file written objections. *See also* Fed. R. Civ. P.
3 6. Failure to file objections will result in a waiver of those objections for purposes of *de novo*
4 review by the district judge, *see* 28 U.S.C. § 636(b)(1)(C), and can result in a waiver of those
5 objections for purposes of appeal. *See Thomas v. Arn*, 474 U.S. 140, 142 (1985); *Miranda v.*
6 *Anchondo*, 684 F.3d 844, 848 (9th Cir. 2012) (citations omitted). Accommodating the time limit
7 imposed by Fed. R. Civ. P. 72(b), the Clerk is directed to set the matter for consideration on
8 September 13, 2024, as noted in the caption.

9 Dated this 23rd day of August, 2024.

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12 David W. Christel
13 United States Magistrate Judge
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